

(e) At the appellant's discretion, the appeal may be accompanied by a request that the Regional Administrator seek a recommendation from the Council as to whether the appeal should be granted. Such a request must contain the appellant's acknowledgment that the confidentiality provisions of the Magnuson-Stevens Act at 16 U.S.C. 1853 (d) and part 600 of this chapter are waived with respect to any information supplied by Regional Administrator to the Council and its advisory bodies for purposes of receiving the Council's recommendation on the appeal. In responding to a request for a recommendation on appeal, the Council will apply the provisions of the PCGFMP in making its recommendation as to whether the appeal should be granted.

(f) Absent good cause for further delay, the Regional Administrator will issue a written decision on the appeal within 45 days of receipt of the appeal, or, if a recommendation from the Council is requested, within 45 days of receiving the Council's recommendation. The Regional Administrator's decision is the final administrative decision of the Department as of the date of the decision.

[66 FR 40922, Aug. 6, 2001]

§ 660.341 Limited entry permit sanctions.

Limited entry permits issued or applied for under this subpart are subject to sanctions pursuant to the Magnuson Act at 16 U.S.C. 1858(g) and 15 CFR part 904, subpart D.

§ 660.350 Compensation with fish for collecting resource information—exempted fishing permits off Washington, Oregon, and California.

In addition to the reasons stated in § 600.745(b)(1) of this chapter, an EFP may be issued under this subpart G for the purpose of compensating the owner or operator of a vessel for collecting resource information according to a protocol approved by NMFS. NMFS may issue an EFP allowing a vessel to retain fish as compensation in excess of trip limits or to be exempt from other specified management measures for the Pacific coast groundfish fishery.

(a) *Compensation EFP for vessels under contract with NMFS to conduct a resource survey.* NMFS may issue an EFP to the owner or operator of a vessel that conducted a resource survey according to a contract with NMFS. A vessel's total compensation from all sources (in terms of dollars or amount of fish, including fish from survey samples or compensation fish) will be determined through normal Federal procurement procedures. The compensation EFP will specify the maximum amount or value of fish the vessel may take and retain after the resource survey is completed.

(1) *Competitive offers.* NMFS may initiate a competitive solicitation (request for proposals or RFP) to select vessels to conduct resource surveys that use fish as full or partial compensation, following normal Federal procurement procedures.

(2) *Consultation and approval.* At a Council meeting, NMFS will consult with the Council and receive public comment on upcoming resource surveys to be conducted if groundfish could be used as whole or partial compensation. Generally, compensation fish would be similar to surveyed species, but there may be reasons to provide payment with healthier, more abundant, less restricted stocks, or more easily targeted species. For example, NMFS may decline to pay a vessel with species that are, or are expected to be, overfished, or that are subject to overfishing, or that are unavoidably caught with species that are overfished or subject to overfishing. NMFS may also consider levels of discards, bycatch, and other factors. If the Council does not approve providing whole or partial compensation for the conduct of a survey, NMFS will not use fish, other than fish taken during the scientific research, as compensation for that survey. For each proposal, NMFS will present:

(i) The maximum number of vessels expected or needed to conduct the survey.

(ii) An estimate of the species and amount of fish likely to be needed as compensation,

(iii) When the survey and compensation fish would be taken, and